

(2013) 12 GUJ CK 0114

In the Gujarat High Court

Case No : Special Civil Application No. 2982 of 2008

S.B. Bhadauria

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 05-12-2013

Acts Referred:

Citation : (2014) LabIC 576

Hon'ble Judges : K.J. Thaker, J

Bench : Single Bench

Advocate : Vaibhav A. Vyas, for the Appellant; Hardik Soni, Ld. AGP for the Respondents No. 1 - 4, for the Respondent

Final Decision : Allowed

Judgement

K.J. Thaker, J.—By way of this petition, the petitioner has prayed for the following reliefs:

(A) direct the respondent authorities to release the annual increments of the petitioner from July, 2005, onwards, with arrears of pay, with interest, at the rate which the Hon?ble Court may consider as just and proper in the facts and circumstances of the case, and

(B) award the cost of the petition, and

(C) pending admission and final disposal of this petition, the Hon?ble Court may be pleased to direct the respondent authorities to release the annual increments of the petitioner from July, 2005 onwards.

Heard Mr. Vaibhav Vyas learned advocate for the petitioner and Mr. Hardik Soni learned AGP for the respondent-authorities.

2. Mr. Vaibhav Vyas learned advocate for the petitioner has submitted that the facts of the present petition is that the petitioner was selected by the Gujarat Public Service Commission for the post of lecturer in Hindi in Government College. Pursuant to this selection, the petitioner was appointed as lecturer and

joined services on 3.7.1991 in the pay scale of Rs. 2200-4000.

3. It is further the case of the petitioner that it was the policy of the government to sanction three advance increments to the lecturers who possess a Ph.D. degree at the time of recruitment. The policy also provided that on completion of eight years of service, senior scale of Rs. 3000-5000 shall be sanctioned for the purpose of calculation of eight years' service, those three advance increments were to be counted as corresponding years of the service. In view of this, the petitioner was sanctioned the pay-scale of Rs. 3000-5000 with effect from 4.7.1996.

4. Learned advocate Mr. Vaibhav Vyas appearing for the petitioner has submitted that it is also the case of the petitioner that the government adopted general revision of pay with effect from 11.96 and in view of that the pay scale of the petitioner of Rs. 3000-5000 was revised as Rs. 10,000-15200. A career advancement scheme was adopted by the government pursuant to which the petitioner was entitled to the selection grade of Rs. 12000-18300, which was sanctioned to him with effect from 4.7.2000. The next date of the increment was 1.7.2001, which was released with annual increments of July, 2002, 2003 and 2004. The petitioner reached at the stage of Rs. 14520 in pay scale of Rs. 12000-18300. That after July, 2004, no increment has been released by the authorities and as on July 2007, the petitioner's pay was still Rs. 14520/-. It is further the case of the petitioner that the petitioner has constantly approached the authorities personally and has also written to them with regard to this matter. The authorities have replied to the petitioner stating that there are certain audit formalities yet to be completed by the Accounts Department and hence the increments have not been released.

5. It is contended by the learned advocate for the petitioner that non release of increments for more than three years for no fault on the part of the petitioner is illegal and arbitrary and under these circumstances the indulgence of this Court is prayed for and hence the present petition is filed.

6. On the other hand, learned AGP Mr. Hardik Soni has opposed this petition. He has further submitted that the affidavit-in-reply filed by the respondents, wherein, in para-9 it is mentioned that the petitioner is sanctioned and released the pay scale of Rs. 12000-420-18300 w.e.f. 4.7.2000 without obtaining approval of pay verification from the Commissioner of Higher Education. The petitioner is getting basic pay scale of Rs. 14520/- from July, 2004 till date which is irregular.

7. It appears that the affidavit-in-reply speaks a general way as the same is filed by the In-charge Principal. Para-9 of the said affidavit shows that his case is not considered for increment despite the fact that he has been granted selection grade. Learned AGP Mr. Soni has heavily relied on para-9 of the affidavit.

8. The increments are matter of right and stoppage of such increments without any adverse entry or without any departmental enquiry, on the trivial grounds is not proper, as in the opinion of this Court, there are no adverse entry against the

petitioner. The reply at page 54 just saying that there are some adverse entry in the year 1998, and therefore, he is not granted benefit now. On the contrary, the order dated 25.7.2000 grants him selection grade since 2000, and therefore, now to stop his increments from 2005 is arbitrary and capricious. The affidavit only speaks there there is some adverse entry which are not communicated to him nor placed on record and never acted upon in the year 2000. The non-grant of increments from the year 2005 till date appears to be unjust, capricious and deserves to be quashed and set aside. In the result, this petition is allowed. The respondents are directed to release the annual increments of the petitioner from July, 2005 onwards and grant all consequential benefits to the petitioner. Rule is made absolute to the above extent only. No order as to costs. Direct service is permitted.